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Supreme Court U.S.
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IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985

JANICE MARIE BUTTRUM,

Petitioner,

v.

GARY BLACK, WARDEN,
MIDDLE GEORGIA CORRECTIONAL
INSTITUTION, WOMEN'S DIVISION,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF GEORGIA

RESPONSE IN OPPOSITION TO THE GRANTING
OF THE PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

I.

Whether the state habeas corpus court properly inquired as to whether or not the prosecutor's argument diminished the jury's sense of responsibility or denied the Petitioner fundamental fairness in accord with the decision of this Court in Caldwell v. Mississippi, ___ U.S. ___, 105 S.Ct. 2633 (1985)?

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PART ONE

STATEMENT OF THE CASE

Petitioner, Janice Buttrum, was indicted in the Superior Court of Whitfield County, Georgia during the July Term, 1980, for the murder of Demetra Faye Parker and the theft of Ms. Parker's motor vehicle. Petitioner was tried by a jury and found guilty of both offenses. Petitioner was sentenced to death for the murder of Demetra Faye Parker, the jury having found two statutory aggravating circumstances to exist, i.e., those statutory aggravating circumstances contained in O.C.G.A. § 17-10-30(b) (2) and (7). On direct appeal to the Supreme Court of Georgia, Petitioner's convictions and sentenced were affirmed. Buttrum v. State, 249 Ga. 652, 293 S.E.2d 334 (1982). This Court denied Petitioner a petition for a writ of certiorari on January 17, 1983. Petitioner's petition for rehearing filed in this Court was denied on March 21, 1983.

Next, Petitioner filed a petition for a writ of habeas corpus in the Superior Court of Baldwin County, Georgia. Following an evidentiary hearing, the Superior Court of Baldwin County, Georgia denied Petitioner state habeas corpus relief on

December 17, 1985. Petitioner's application for a certificate of probable cause to appeal filed in the Supreme Court of Georgia was denied on March 11, 1986. This petition for a writ of certiorari follows.

The facts presented at trial established the following:

Nineteen year old Demetra Faye Parker was savagely raped, sodomized and stabbed ninety-seven times in her motel room at the Country Boy Inn, in Whitfield County, Georgia, during the early morning hours of September 3, 1980. Demetra Parker had lived in Tennessee, but had come to Georgia to be near her boyfriend. On the evening before her death, September 2nd, Ms. Parker arranged to meet two friends. (T. 512, 1519). Ms. Parker and her companions spent approximately two hours together at Demetra's motel room watching television. During this visit, Petitioner's husband, Danny Buttrum, was observed pacing back and forth approximately fifteen to twenty times outside Ms. Parker's room. (T. 1513, 1516, 1520). Ms. Parker told her friends that she was fearful of Mr. Buttrum and they locked the door. At approximately 8:30 p.m. Ms. Parker drove her guest home. (T. 1513-1514, 1520).

Christopher Busby lived at the Country Boy Inn during August and September of 1980. Petitioner and her husband also had a room, Room No. 243, at the same motel. (T. 1539, 1540, 1549, 1624). Mr. Busby and Mr. Buttrum visited with each other during Tuesday, September 2, and drank a beer together. During this time, Ms. Parker drove Petitioner to the store and to the laundromat. (T. 1417, 2046, 2059).

At approximately 7:00 p.m., Mr. Buttrum, Petitioner and their baby, along with Mr. Busby, left the motel to purchase beer. (T. 1514, 1552). The three adults and the child drove around in Mr. Busby's blue and white Ford Torino and tried to "get him a girl" at Danny Buttrum's request. (T. 1539, 1544). When questioned if Petitioner would become angry, Mr. Buttrum stated, "No, as long as she gets to go with her first." (T. 1395, 1544).

Female witnesses testified that Mr. Buttrum came to visit them during the late evening hours of September 2, 1980 and that they observed a woman seated in the back of the car. Danny Buttrum was unable to make arrangements with any of the women and returned to the motel with Petitioner, their child

and Mr. Busby. (T. 1546, 1570-1572, 1578, 1598). Mr. Busby then loaned Mr. Buttrum his car, which was returned at approximately 3:45 a.m. on September 3, 1980. (T. 1546, 1547).

During the early morning hours of September 3, Petitioner and her husband went to Ms. Parker's room, No. 253, at the Country Boy Inn in Dalton, Georgia. (T. 1394, 1435, 1624-1625). Petitioner, while holding her baby, knocked on Ms. Parker's door and when Ms. Parker answered, the couple rushed inside. While Mr. Buttrum struggled with Ms. Parker's Petitioner adjusted the lights and closed the door. (T. 1394, 2049, 2090).

Petitioner began to stab Ms. Parker with a Barlow brown and white knife after Mr. Buttrum wrestled the victim to the ground. (T. 1436, 2092, 2106). Petitioner repeatedly stabbed Ms. Parker, whereupon, Petitioner's husband took the knife and continued the attack. (T. 1394, 1436, 2104). While Mr. Buttrum and Petitioner were stabbing Ms. Parker, Petitioner's husband was masturbating. (T. 1436). When Ms. Parker refused to die, Petitioner cut her across the stomach to kill her, "because it was the only place to cut," and "that girl sure didn't want to die." (T. 1394, 1436).

As a final sadistic touch, Petitioner's husband picked up a cylindrical toothbrush holder and pushed it into Ms. Parker's vagina. (T. 2052). Only then did Petitioner and Mr. Buttrum pick up their child from the motel room floor, along with Ms. Parker's ring and pocketbook and finally leave the room. (T. 1436). Petitioner and her family returned to their motel room to wash off Ms. Parker's blood. They then fled in Ms. Parker's 1975 Buick Rivera. (T. 1436, 2100).

Dr. James Metcalfe, Associate Pathologist at Hamilton Memorial Hospital, performed the autopsy on Demetra Parker. (T. 1380, 1451-1453). Ms. Parker was 5'8 1/2" and weighed approximately 100 lbs. She incurred sixty-seven stab wounds to her left chest with a maximum depth of 2". The blade penetrated several ribs and her left lung. Dr. Metcalfe

observed twenty-four stab wounds and cuts in the front neck area with several cuts to the windpipe. (T. 1451-1456). Spinal stab wounds were 2" deep and cut into the backbone. A gapping gash had been inflicted to ms. Parker's lower abdomen, exposing her bowels. (T. 1456). Ms. Parker suffered a 4" cut in the genital area, as well as damage to the vagina and rectum from forcible penetration. (T. 1456, 1459, 1473). Hemorrhages and bruise marks were observed on Ms. Parker's scalp, nose, knees and genital region. (T. 1457). Finally, there was a 1 to 1 1/2 bite mark on her neck. (T. 1457, 1467).

Dr. Metcalfe stated that the vast majority of injuries around the vagina and anus occurred while Ms. Parker was alive. (T. 1468). Ms. Parker died only after the attack or at the very end of the prolonged assault. (T. 1469). The stab wounds to the chest and neck finally resulted in her death. (T. 1467-1468).

Special Agent Charles Johnson of the Georgia Bureau of Investigation investigated the murder. (T. 1373-1374). He found bloody towels, panties and other items in Ms. Parker's room. (T. 1375). Mr. Chambracant Patel, the manager and owner of the Country Boy Inn, informed investigators that he had discovered Ms. Parker's body. (T. 1610). Mr. Patel also found the key to Petitioner's room on the motel front desk and after investigating, determined that Petitioner had abandoned her room. (T. 1609, 1612). Mr. Patel admitted investigators to Petitioner's empty room. (T. 1377). A bar of soap and a pink washcloth both covered with blood were found in the sink of Petitioner's room. (T. 1377-1378).

Forensic Serologist Connie Pickens examined the evidence and a blood sample from Demetra Parker. (T. 1476-1479). Ms. Parker had Type O blood, which was the same type of blood as the blood stains found on the physical items of evidence including the pink washcloth in Petitioner's abandoned room. (T. 1479-1480, 1485). Forensic Serologist John Wiegel, Jr. found the blood enzymes on the pink washcloth to be consistent with Ms. Parker's blood enzyme makeup. (T. 1493-1502).

At approximately 5:00 a.m. on September 3, Petitioner, her husband and child drove to the truckstop where Mr. Buttrum worked. (T. 1592). Petitioner attempted to borrow money but was unsuccessful. (T. 1592). Petitioner was finally able to get $20.00 from the truckstop manager. (T. 1598-1603). Petitioner stated, "I don't know if you know what's going on or not, but we're in a hurry. And if Mr. Teems or anyone ask you, you have not seen us." (T. 1602-1603).

Special Agent Willard Dodd of the GBI contacted Petitioner's mother-in-law on Wednesday, September 3. Mrs. Buttrum had given the couple money at approximately 6:00 a.m. that morning. (T. 1421-1423). Petitioner contacted Mrs. Buttrum by telephone the following morning from Pensacola, Florida, requesting that more money be wired to the local Western Union Office in Florida. (T. 1425). Petitioner and her husband were arrested on September 4th in Pensacola as they attempted to pick up the money that had been wired to them. (T. 1428-1431). Petitioner gave the ring and barrette that she had taken from the victim to Agent McFaul. (T. 1436-1437, 1422). Petitioner stated, "Should you feel some remorse when you kill somebody?" because she said she did not feel anything. (T. 1417). Petitioner was advised of the Miranda warnings and signed a waiver form. (T. 1434-1436, 1616-1621, 1624-1625). Petitioner thereafter read and signed her confession. (T. 1622-1623, 1625).

Whitefield County Sheriff's Department jailer John Parker received a letter written by Petitioner while she was incarcerated requesting that the communication be given to the proper authority. (T. 1632-1646). Petitioner wrote that she killed Demetra Parker as an unwarranted act of jealousy and that she made her husband do everything he did, including the rape of Demetra Parker. (T. 1644).

Petitioner did not testify during the guilt/innocence phase of her trial. The jury found Petitioner guilty of murder and theft of a motor vehicle. (T. 1770). During the sentencing

phase of the trial the defense attempted to establish Petitioner's impoverished childhood background, replete with neglect, victimization by her stepmother, and non-existent home hygiene. (T. 1937-1982). Petitioner was characterized as being non-violent, passive, withdrawn and having a low self-image. (T. 1979, 2005, 2017). Witnesses testified, however, that the observations attested to were based on familiarity with Petitioner during 1977 and from Petitioner's early elementary school years. (T. 1950-1951, 1961, 1968, 1982, 2000). Furthermore, one witness stated that not many neglected children commit murder and that many children in similar situations lead good lives. (T. 1942, 1947). When questioned about Petitioner's capacity to commit such a crime, Unit Director of the Bartow County Juvenile Court, Wanda Holstein, stated, "I would have to do more of a study of what's happened in Janice's life since I worked with her." (T. 1997). Petitioner was characterized as an individual who "would make decisions that would give her the most pleasure, without really giving any consideration to the consequences." (T. 2080).

Petitioner testified during the sentencing phase of her trial that her husband would do anything when he had been drinking. (T. 2041). Petitioner admitted stabbing the victim because she was hurt and angry. (T. 2051). Petitioner denied having oral sex with the victim and also testified that the letter she had written while in jail was not true. (T. 2055, 2088). Petitioner alleged that she did not remember making the statement she had made to the authorities. (T. 2098).

Clinical psychologist Henry Adams testified at trial that Petitioner has an anti-social personality as well as symptoms of paraphilia sexual sadism. (T. 1804, 1822, 1835). This type of individual becomes excited by the suffering, humiliation and pain of the victim, especially from a non-consenting

individual. (T. 1814-1816). Dr. Adams further testified that the behavior was a repetitive type of activity that continues until the person is apprehended or stopped in some way. (T. 1822-1823).

PART THREE

REASONS FOR NOT GRANTING THE WRIT

THE PROSECUTOR'S ARGUMENT DURING THE SENTENCING PHASE OF THE PETITIONER'S TRIAL DID NOT DENY PETITIONER FUNDAMENTAL FAIRNESS.

In this petition for a writ of certiorari, Petitioner claims that the state habeas corpus court failed to apply the appropriate standard of review in denying Petitioner's state habeas corpus relief with respect to her claim that the argument of the prosecutor during the sentencing phase allegedly violated Petitioner's constitutional rights. Specifically, Petitioner contends that the standard applied by the state habeas corpus court was not in accordance with the standard articulated by this Court in Caldwell v. Mississippi, ___ U.S. ___, 105 S.Ct. 2633 (1985).

Respondent submits that the state habeas corpus court properly made an inquiry as to whether the prosecutor's arguments denied Petitioner a fundamentally fair trial and that the analysis utilized by the state habeas corpus court is the same analysis which was utilized by this Court in Caldwell v. Mississippi, supra. Respondent submits that Petitioner was not denied her right to a fundamentally fair trial and therefore, the principles set forth by this Court in Caldwell v. Mississippi, supra, were not violated due to the prosecutor's arguments in this case.

The state habeas corpus court found the following with reference to the prosecutor's argument at the sentencing phase:

> This Court has closely examined the closing argument of the prosecutor at the sentencing phase of the trial and concludes that said argument did not introduce the "passion, prejudice or other arbitrary factors"

> proscribed by O.C.G.A. § 17-10-35(c)(1), nor did it diminish the jury's sense of responsibility or deny the Petitioner fundamental fairness.

(Petitioner's Appendix 2, p. 10). Respondent submits that this analysis of the validity of the prosecutor's closing argument was in full accord with the decision of this Court in Caldwell v. Mississippi, ___ U.S. ___, 105 S.Ct. 2633 (1985).

In Donnelly v. DeChristoforo, 416 U.S. 637 (1974), the standard for reviewing prosecutor's argument emerged so as to focus on whether the complained of comments by the prosecutor rendered a defendant's trial fundamentally unfair. Donnelly v. DeChristoforo, supra, at 642. Also in Donnelly v. DeChristoforo, supra, this Court provided further important guidelines for reviewing allegedly improper prosecutorial arguments. Of primary importance is the need to examine the entire context of the judicial proceeding, so as to determine if the argument rendered the entire trial fundamentally unfair.

In Caldwell v. Mississippi, supra, this Court utilized the language of the "harmless beyond a reasonable doubt test of Chapman v. California, 386 U.S. 18 (1967), in evaluating the impact of the prosecutor's remarks made during the closing argument on the sentencing phase of a death penalty case. Respondent respectfully submits that this Court's decision in Caldwell v. Mississippi, supra, is a case which is fact specific and establishes no new standard of general applicability in reviewing claims of alleged prosecutorial misconduct. Rather, the analysis utilized by this Court in Caldwell v. Mississippi, supra, was also essentially a determination of whether the prosecutor's argument had rendered Petitioner's trial fundamentally unfair.

This Court focused on several factors in making this determination. First, this Court in Caldwell found that the prosecutor's comments during closing argument were clear and

unambiguous. Second, this Court noted in Caldwell v. Mississippi, supra that comments of the prosecutor impacted directly upon the defendant's Eighth Amendment right to the responsible and reliable exercise of sentencing discretion by a sentencer who had been improperly led to believe that its decision was not the final decision. Third, this Court noted that the prosecutor's clear and unambiguous improper comments made during sentencing were buttressed by the trial court's comments to the jury. Finally, this Court noted in Caldwell that in that particular case there was an absence of any clarifying instructions from the trial court to the jury concerning the proper exercise of the jury's discretion as to sentencing. Because of the presence of each of these factors and their cumulative effect, this Court concluded that it could not be said that the presence of these factors ". . . had no effect on the sentencing decision." Id. at 2646.

Recently in Darden v. Wainwright, No. 85-5319 (U.S. June 23, 1986), this Court, in reviewing a prosecutor's argument during the guilt/innocence phase, while examining its prior decision in Caldwell v. Mississippi, and noted that the principles of Caldwell apply to situations which involve comments by a prosecutor during the sentencing phase of a trial to the effect that jury's decision the jury's decision as to life rested death was not final, that the jury's decision would automatically be reviewed by the state supreme court and the jury should not be made to feel that the entire burden of the defendant's life was on them. Darden v. Wainwright, supra, slip. Op. at p. 14, fn. 15. This Court noted that, "Caldwell is relevant only to certain types of comments - those that mislead the jury as to its role in the sentencing process in a way that allows the jury to feel less responsible than it should for the sentencing decision." Id. This Court found in Darden v. Wainwright, supra, that none of the comments made by the prosecutor in argument in that case could have had the effect of misleading the jury into thinking that it had a reduced role in the sentencing process. Id.

Similarly, Respondent submits that the state habeas corpus court made such an inquiry in rejecting this argument made by Petitioner. The Court properly found that there were no comments that had this improperly misleading effect. The state habeas corpus court's analysis as to whether the prosecutor's argument diminished the jury's sense of responsibility is clearly the same analysis as was applied by this Court in Caldwell v. Mississippi, supra.

Petitioner contends that the prosecutor's argument was misleading in several respects. First, Petitioner contends that the jury was repeatedly told that it should not feel any responsibility for a verdict of death as the responsibility for such a sentence lay only with the Petitioner. Petitioner cites his fourth appendix to this petition at pages 2 and 20-21. An examination of the argument made by the prosecutor in the context of the argument as a whole reveals that the argument did not diminish the jury's responsibility for a death sentence. The first reference to the closing arguments made by Petitioner attacks this language, "I want each and every one of you to know and realize that if a verdic. of death is returned in this case, the only person who should feel the responsibility is the Defendant herself. Because of what she did, she, in essence, signed her own death warrant." (Petitioner's Appendix 4, p. 2). Respondent submits that viewed in context this statement was not misleading. This statement was at the beginning of the prosecutor's closing argument during sentencing in which the prosecutor began by telling the jury that capital punishment was an expression of society's moral outrage at particularly offensive conduct. The prosecutor then argued that the jury would have to find whether statutory aggravating circumstances existed beyond a reasonable doubt and that if there were statutory aggravating circumstances, he urged the jury to return a verdict of capital punishment. The prosecutor then made the statement now assigned as error. The statement was essentially an argument

that Petitioner's own conduct authorized the death penalty, rather than a statement that the jury should not feel responsible for imposing the death sentence, as the prosecutor had just stressed that it was the jury's responsibility to determine if statutory aggravating circumstances existed and if so, whether a sentence of death should be returned. (Petitioner's Appendix 4, p. 2). This comment did not mislead the jury.

Next, Petitioner attacks that portion of the prosecutor's argument that states, "do not consider that anyone of you is throwing the switch. You are merely one cog in the criminal process." (Petitioner's Appendix 4, p. 21). This second remark which is alleged to diminish the jury's sense of responsibility, was made near the end of the prosecutor's closing argument. The portion of prosecutor's closing argument immediately preceding the objected to remark reads as follows:

> Ladies and Gentlemen, as I said earlier, it is she, the Defendant, that has signed her own death warrant; she, herself, has brought these proceedings down about her. No one -- no one else, including you, should feel any responsibility for what happens to her, for it is she that has caused us all to be here today, for it is she that broke into that room that night by trick, for it is she that participated in the rape over and over of Demetra Parker, for it is she that helped stabbed (sic) Demetra Parker ninety-seven times, for it is she that left her in that condition with that tooth brush holder in her vagina, for it is she that left her there to die, for it is she that has brought

her whole world crumbling down about her, and it is she that has, in reality, signed her own death warrants. She is responsible for her acts. Now, she is responsible for her death, no one else.

(Petitioner's Appendix 4, p. 20-21).

This argument of the prosecutor was made in direct response to both argument and evidence presented on behalf of Petitioner. Petitioner was a 19 year old girl who had allegedly lived a chaotic and crisis-filled life and had allegedly come from poverty-stricken circumstances. Petitioner's attorneys' were seeking to invoke the jurors' feeling of sympathy for Petitioner in order to avoid the death sentence. Additionally, Petitioner committed these crimes along with her husband, Danny Buttrum and it was alleged by both argument and evidence presented on Petitioner's behalf, that Petitioner had only participated in these crimes in order to aid her husband and at his initiation. Petitioner's attorneys were attempting to establish that Petitioner was a follower and that she would have never participated in any way in these crimes, but for the influence of her husband upon her. Therefore, the prosecutor was arguing that Petitioner was responsible for her own actions and that no one, including her husband, had forced her to do any of the acts which had been established by the evidence presented for the state. The prosecutor was arguing that Petitioner should be held responsible for her actions, and that the jurors should not exercise their authority to spare Petitioner's life when her own actions supported the imposition of the death sentence.

Viewed in the context of the evidence presented at trial, especially the argument and evidence presented on behalf of Petitioner trying to establish that she was less than a full participant in all the crimes, this argument did not violate the principles set forth by this Court in Caldwell v. Mississippi, supra.

Petitioner also cites several other portions of the prosecutor's argument as being improper. Specifically, Petitioner contends that the prosecutor relieved the jury of its duty and responsibility to judge the appropriate sentence to be imposed, by telling the jury that the only just sentence was the death sentence. Viewed in context, these remarks were not improper. The prosecutor was arguing that Petitioner's acts showed depravity of mind and that this was the ultimate crime which should be punished by the ultimate punishment, anything less being inadequate. (Petitioner's Appendix 4, p. 7). The prosecutor was simply arguing that aggravating circumstances were established by the evidence that was presented so as to authorize the sentence of death. This is, of course, the purpose of the prosecutor's argument at the sentencing phase and to disallow such argument would be to eliminate the prosecutor's ability to seek the death sentence.

Petitioner contends that the prosecutor's argument impermissibly compared Petitioner's life to that of the victim, but an examination of the pages cited by the Petitioner establishes that the prosecutor was arguing that the Petitioner should receive the same type of "justice," that she had afforded her victim, i.e., "capital punishment". There was no comparison of the worth of the lives of the Petitioner and the victim and this argument was not improper and certainly did not render the sentencing process fundamentally unfair. (Petitioner's Appendix 4, p. 16).

Petitioner contends that the prosecutor violated Petitioner's constitutional rights because the prosecutor informed the jury that it was not proper to consider mercy or sympathy in reaching its decision. Respondent submits that the prosecutor appropriately argued that the jury should not return a life sentence because they felt sorry for the Petitioner but rather should base their verdict "according to the evidence," "not according to sympathy, not according to feeling sorry for a defendant." (Appendix 4, p. 17). Again, this was in direct

response to the attempt on the part of Petitioner's attorneys by argument and evidence to avoid the death sentence based on sympathy for Petitioner as a 19 year old juvenile delinquent from a broken home and poverty-stricken circumstances.

Finally, Petitioner objects to the comment of the prosecutor that, "We all know what a life sentence really means." (Appendix 4, p. 8). This statement was objected to and sustained by the trial court. (Appendix 4, p. 8-9). Then the prosecutor clarified this argument as being that there was only one question, whether or not Petitioner deserved life or the death penalty, i.e., that there was no middle ground between life imprisonment and the death penalty. (Appendix 4, p. 9). Therefore, viewed in the context of the whole argument of the prosecutor, and due to the trial court's sustaining of Petitioner's attorney's objection to this remark, Respondent submits that Petitioner cannot establish that the jury's sense of responsibility was diminished by virtue of this statement.

Simply stated, Respondent submits that the habeas corpus court properly applied the same test utilized by this Court in Caldwell v. Mississippi, supra, as further defined by this Court's recent decision in Darden v. Wainwright, supra, and that the prosecutor's remarks during the sentencing phase, viewed in the context of the trial as a whole did not have the effect of misleading the jury into thinking that it had a reduced role in the sentencing process.

CONCLUSION

For all of the above and foregoing reasons, Respondent prays that this Court deny this petition for a writ of certiorari.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, SUSAN V. BOLEYN, a member of the Bar of the Supreme Court of the United States and counsel of record for the Appellee, hereby certify that in accordance with the Rules of the Supreme Court of the United States, I have this day served a true and correct copy of Response in Opposition to the Granting of the petition for a writ of certiorari upon counsel for the Petitioner by depositing a copy of same in the United States mail with proper address and adequate postage to:

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This 9th day of July, 1986.

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CERTIFICATE OF MAILING

I, SUSAN V. BOLEYN, a member of the Bar of the Supreme Court of the United States and counsel of record for the Respondent, hereby certify that in accordance with the rules of the Supreme Court of the United States, I have this day deposited in the United States mail with proper address and adequate postage to the Clerk of the Supreme Court of the United States, and that three copies of said brief are being properly mailed to counsel for the Petitioner.

This 9th day of July, 1986.

Susan V. Boleyn

SUSAN V. BOLEYN
Senior Assistant
Attorney General
Counsel of Record for the
Respondent.

Sworn to and subscribed before
me this 3rd day of July, 1986.

Becky Hughes

NOTARY PUBLIC

Notary Public, Georgia State at Large
My Commission Expires Nov. 16, 1988